

O I P E SEP 25 2003 SCR25 Attorney Docket No.: 0045-1

PATENTS 3764  
JF/B

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: James E. Brehove Group Art Unit: 3764  
Serial No.: 10/077,521 Examiner: N/A  
Filed: February 15, 2002  
For: **TOPICAL APPLICATION FOR TREATING**  
**TOENAIL FUNGUS**  
Matter No.: 0045-1

Assistant Commissioner For Patents  
Washington, DC 20231

Sir:

**INFORMATION DISCLOSURE STATEMENT  
UNDER 37 CFR §1.97(b)**

The following document listed on form PTO-1449 was unearthed in the course of a search conducted during prosecution of the PCT counterpart application. A copy of the Search Report and the listed document is enclosed. This document does not disclose or suggest the subject matter of applicant's invention, as delineated by present claims 1-16.

Submission of the listed document should not be construed as an admission that this patent referenced in the Search Report is "prior art" for the present invention, or as a waiver of applicant's right to take any action that would be appropriate to antedate or otherwise remove any listed document as a competent reference against the claims of the present application.

It is submitted that the present application is patentable over the listed reference and in allowable condition. Accordingly, allowance of the application is earnestly solicited.

It is understood that no fee is necessary for submission of this Information Disclosure Statement, as it is being filed before the later of three months from the filing date or the mailing of the first Office Action on the merits.

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For the reasons set forth above, it is submitted that no additional fee is required for this Information Disclosure Statement. However, in the event that the Commissioner deems that an additional fee is required, it is respectfully requested that applicant's attorney be contacted and accorded an opportunity to pay such additional fee.

Respectfully submitted,



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**Enclosures**

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Dated: September 23, 2003

**Certificate of Mailing by First Class Mail**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231 on September 23, 2003.

  
*Signature*

Ernest D. Buff  
Attorney of Record

September 23, 2003  
(Date)

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Examiner: Initial if citation considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.